

Remarks

The examiner is thanked for the Official Action dated October 6, 2003. The examiner is also thanked for the personal interview on November 20, 2003. The examiner's efforts have greatly accelerated prosecution of this application. This amendment and request for reconsideration is intended to be fully responsive to the Official Action and the personal interview.

With regard to the substance of the interview, independent claims 1, 13, 19 and 20 were discussed as well new independent claim 24-27. The examiner generally indicated that the new and amended claims appeared to define over the prior art identified in the Office Action, however, the examiner stated that an additional search may be required and a final determination could not be made until the claims were formally presented in an amendment. The examiner stated that amended claim 20, as presented at the interview, did not define over the prior art. Claim 20 has been amended since the interview and is presented in this amendment in a modified form.

In the Official Action, the examiner objected to the title of the invention. The examiner also objected to a typographical error and the use of the phrase "is disclosed" in the Abstract. The examiner objected to claims 15 and 20 because of claim informalities. Claims 1-3, 12-14, and 18 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,474,341 to Putman. Claims 19-23 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,155,584 to Pracchia. Claims 1-4, 9, 12-14, and 18-20 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent 4,538,512 to Blough.

Claims 8 and 15-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Blough.

In this amendment, the title has been changed to more accurately describe the invention. The Abstract has also been modified to delete the phrase “is disclosed” and to correct a typographical error. Informalities in claims 15 and 20 have also been corrected.

With regard to claims 1-12, independent claim 1 has been modified to indicate that the link 116 is pivotably attached to the fastener 108 at a first end, and pivotably attached to the weight 70 at a second other end, as indicated in Figure 1 of the present invention. Neither Blough nor Putman discloses a latching mechanism having a link with the claimed limitations. Since claims 2-12 are dependent on claim 1, it is respectfully submitted that claims 1-12 are in condition for allowance.

With regard to claims 13-18, independent claim 13 has been modified to indicate that fastener 108 is pivotably attached to the container body 12 a first point 110, and the weight 70 is pivotably attached to the body 12 at a second point 72, as indicated in Figure 1 of the present invention. Neither Blough nor Putman discloses a latching mechanism having first body attaching point for the fastener, and a distinct second body attaching point for the weight. In accordance with MPEP 2129, to anticipate a claim, the reference must disclose each and every element of the claim. Given a fair and reasonable reading, the prior art does not disclose the claimed mechanism. Since claims 14-18 are dependent

on independent claim 13, it is respectfully submitted that claims 13-18 are now in condition for allowance.

With regard to independent method claim 19, claim 19 has been amended to indicate that the weight 70 is attached to the exterior of the container body 12, and that the weight remains in the first position until the container is pivoted at least 5 degrees, as indicated in Figures 1 and 3 of the present invention. Amended claim 19 is distinguishable from Pracchia because the relatively complex mechanism described by Pracchia is designed to be mounted in the interior of the container, as indicated in Pracchia column 1, lines 55-57, and in Pracchia Figures 3-5. Amended claim 19 is distinguishable from Blough because the weight remains in a first position until the container is pivoted at least 5 degrees. Blough Figures 1 and 4 disclose a gravity-operated latching mechanism wherein the weight 42 is free to pivot relative to the container 10 whenever the container 10 is rotated. The latching mechanism and attached weight are not retained in a first position when the container is rotated because the weight rotates freely about a single pivot point and is unrestrained by any mechanical linkage. As indicated in Blough column 2, lines 62-65, whenever the trash container 10 is tilted, the weight 42 causes the latch 38 to automatically release. However, as claimed in amended claim 19 of the present invention, the weight 70 will maintain a first position until the container 12 is pivoted at least 5 degrees (and for a significant time thereafter) as indicated in Figure 3 of the present invention. Further, it would not be obvious to modify Blough to release the lid at a predetermined angle. Given the relatively simple design of the mechanism disclosed in Blough, it is unclear how one would modify Blough to

release the lid at a selectable angle. It is respectfully submitted that claim 19 is in condition for allowance.

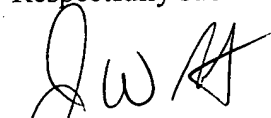
With regard to claims 20-23, independent claim 20 has been amended to indicate that the weight is mounted on the exterior of the container, and the weight pivots at a first connection point with the container body, and the weight also pivots at a second point with the link. As discussed above, the mechanism disclosed by Blough only has a single pivot point, and the weight disclosed by Pracchia is mounted on the inside of the container. Since claims 21-23 are dependent on independent claim 20, it is respectfully submitted that claims 21-23 are now in condition for allowance.

With regard to new independent claims 24-27, independent claim 24 is substantially claim 10 written in independent form to include all the limitations of the original (unamended) independent claim 1. In the previous Office Action the examiner indicated that claim 10 would be allowable if re-written in independent form. Independent claim 25 is distinguishable from the prior art because, among other things, the claim includes a latching mechanism with a first pivot point for the weight, and a second pivot point for the fastener. As discussed above, the prior art fastening mechanisms utilize only a single pivot point. Similarly, independent claim 26 is distinguishable because it claims a first pivot point between the fastener and the container, and a second pivot point between the fastener and the link. Independent claim 27 claims that the fastener remains in the securing position until the container base is rotated to an angle of about 90 degrees. Blough, Pracchia, and Putman do not include the

limitations of added independent claims 24-27. It is respectfully submitted that claims 24-27 are in condition for allowance.

It is respectfully submitted that the above amendments and comments resolve all outstanding issues and place this application in condition for allowance. It is believed that no fee is due for this submission. Should that determination be incorrect, then please debit Account No. 50-0548 and notify the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JWB', with a stylized flourish at the end.

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